

UNITED STATES PATENT AND TRADEMARK OFFICE



APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
08/994,758	12/19/1997	KENJI NISHI	XA-7889A-RE 6998		
	590 05/16/2003				
OLIFF & BEI P.O. BOX 1992	RRIDGE, PLC	EXAMINER			
ALEXANDRIA, VA 22320			MATHEWS, ALAN A		
			ART UNIT	PAPER NUMBER	
			2851		

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application No		Applicant(s)	
Office Action Summary		08/994,758		NISHI, KENJI	
		Examiner		Art Unit	
	The MAILING DATE of this communication and	Alan A. Mathew	-	2851	
Period fo	The MAILING DATE of this communication ap or Reply	pears on the cove	er sneet with the c	orrespondence ad	iaress
THE No - Exter after - If the - If NO - Failur - Any r	ORTENED STATUTORY PERIOD FOR REPL MAILING DATE OF THIS COMMUNICATION. sions of time may be available under the provisions of 37 CFR 1. SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a repiperiod for reply is specified above, the maximum statutory period to reply within the set or extended period for reply will, by statute eply received by the Office later than three months after the mailing digital patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, how by within the statutory make will apply and will expire a cause the application	vever, may a reply be tim inimum of thirty (30) days a SIX (6) MONTHS from t to become ABANDONED	ely filed will be considered timel he mailing date of this c	ly. ommunication.
1)⊠	Responsive to communication(s) filed on 10	October 2002 .			
2a) <u></u> □	This action is FINAL . 2b)⊠ Th	nis action is non-	final.		
3)□ Dispositi	Since this application is in condition for allow closed in accordance with the practice under on of Claims		1035 C D 11 //		
4)🖂	Claim(s) <u>1-9,14 -39,41-43,45,49-55,68-70,72-</u>	-74,76,80-84,96-	99, is/are pen	ding in the applic	ation.
•	4a) Of the above claim(s) is/are withdra	wn from conside	ration.	,	
5)□	Claim(s) is/are allowed.		101-103,105	, 109-115, 128	3-142, 189
6)⊠	Claim(s) <u>1-9,14-39,41-43,45,49-55,68-70,72-7</u>	<mark>4,76,80-84,96</mark> -9	9, is/are reject	ed.	
7)	Claim(s) is/are objected to.				
	Claim(s) are subject to restriction and/o	r election require	ement.		
9) 🗆 7	The specification is objected to by the Examine	r.			
	he drawing(s) filed on <u>19 December 1997</u> is/a		or b) objected to	by the Examine	r.
•	Applicant may not request that any objection to the			-	•
11)[] Т	he proposed drawing correction filed on		•	, ,	er.
	If approved, corrected drawings are required in re			•	
12)∐ T	he oath or declaration is objected to by the Ex	aminer.			
Priority u	nder 35 U.S.C. §§ 119 and 120				
13)🛛	Acknowledgment is made of a claim for foreigr	priority under 3	5 U.S.C. § 119(a)	-(d) or (f).	
a)[∑	☑ All b) ☐ Some * c) ☐ None of:		· ·	, , , , , ,	
	1. Certified copies of the priority document	s have been rece	eived.		
:	2. Certified copies of the priority document	s have been rece	eived in Applicatio	n No. <u>08/377,50</u> 4	<u>4</u>
	3. Copies of the certified copies of the prior application from the International Buse the attached detailed Office action for a list	rity documents h reau (PCT Rule	ave been received	d in this National	='
	cknowledgment is made of a claim for domesti				application)
_ a)	The translation of the foreign language procknowledgment is made of a claim for domesti	visional applicat	ion has been rece	ived.	Spp. Samon,
Attachment		i i i i i ji siri mari k			
2) Notice 3) Inform	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s) 43	4) 5) 3. 6)	Interview Summary (Notice of Informal Pa Other:	(PTO-413) Paper No(atent Application (PT0	
S. Patent and Tra TO-326 (Rev		tion Summary		Part of Paper No. 44	

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 - 9, 14 - 39, 41 - 43, 45, 49 - 55, 68 - 70, 72 - 74, 76, 80 - 84, 96 - 99, 101 - 103, 105, 109 - 115, 128 - 142, and 189 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 35 - 50 of copending Application No. 09/779,686 in view of the Japanese Patent document 04 - 196,513. With respect to claim 9 of the instant application, claim 50 of Application No. 09/779,686 discloses on line 1 a scanning exposure apparatus and a first object formed with a pattern. Line 4 of claim 50 of Application No. 09/779,686 discloses a projection optical system and line 5 discloses an exposure beam. Lines 1 and 2 of claim 50 disclose synchronously scanning. Line 14 of claim 50 discloses a first interferometer system (first measuring system) and line 17 of claim 50 discloses a second interferometer system (second measuring system). Lines 24 - 33 of claim 50 disclose an

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adjusting system. Claim 45 discloses that the movable body is rotatable. Thus, claims 35-50 of Application No. 09/779,686 discloses the invention of claims 9 and 30 of the instant application except for specifically calling the first object with a pattern a "mask" and calling the second object, which has an image projected on it from the first object, a "photosensitive substrate", and also disclosing that the radiation has a slit shaped intensity. The Japanese Patent document 04-196,513 discloses the old and well-known concept of having a first object be a mask and a second object be a substrate. The Japanese Patent document 04-196,513 also discloses a slit shaped irradiation L in figure 6. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have the first object of Application No. 09/779,686 be a mask and having the second object of Application No. 09/779,686 be a substrate in view of the Japanese Patent document 04-196,513 for the purpose of producing an accurate product (wafer). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the irradiation in the claims of Application No. 09/779,686 slit shaped in view of Japanese Patent document 04-196,513 for the purpose of more accurate illumination. The differences between the other claims of the instant application and claims 35-50 of Application No. 09/779,686 are obvious modifications.

This is a <u>provisional</u> obviousness-type double patenting rejection.

3. Claims 1 - 9, 14 -39, 41-43, 45, 49-55, 68-70, 72-74, 76, 80-84, 96-99,101-103,105,109-115, 128-142, and 189 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35-69 of copending Application No. 09/962,334 in view of the Japanese Patent document 04-196,513. With respect

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to claim 9 of the instant application, claim 35 of Application No. 09/962,334 discloses an exposure apparatus having a pattern of an original (which is the mask) projected onto a substrate. Claim 35 further discloses that the original (mask) and the substrate are scanned synchronously. Claim 35 also discloses a first and second stage, one of which is for scanningly moving the original and the other of which is for scanningly moving the substrate. Claim 35 further discloses a measuring means for measuring a deviation of the first stage relative to the second stage. Claim 37 discloses that the measuring means comprises an interferometer. Thus, claims 35-69 of copending Application No. 09/962,334 disclose the invention of claim 9 of the instant application except for disclosing a finely moving stage for finely moving the mask. The Japanese Patent document 04-196,513 discloses finely movable stages 27 and 29 for the purpose of providing more accurate alignment. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the claims 35-69 of copending Application No. 09/962,334 with a finely movable mask stage in view of the Japanese Patent document 04-196,513 for the purpose of more accurate alignment of the mask and the substrate. The differences between the other claims of the instant application and claims 35-69 of Application No. 09/962,334 are obvious modifications.

This is a provisional obviousness-type double patenting rejection.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents on Applicant's PTO 1449 are cited for the same reasons Applicant cited them in his INFORMATION DISCLOSURE STATEMENT.

Allowable Subject Matter

5. Claims 1 - 9, 14 -39, 41-43, 45, 49-55, 68-70, 72-74, 76, 80-84, 96-99,101-103,105,109-115, 128-142, and 189 would be allowable subject to filing a proper terminal disclaimer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan A. Mathews whose telephone number is (703) 308-1706. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Alan A. Mathews Primary Examiner

alan a Malken

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AAM May 14, 2003